

IN RE: PETITION FOR SPECIAL HEARING
S/S Cherry Hill Rd., 2,000' E
of Fork Rd.
6631 Cherry Hill Road
11th Election District
6th Councilmanic District
Jo Ann Rogge and Linda Ann Puto
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE # 90-456-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein, pursuant to the Petition for Special Hearing, requests a determination that Lot No. 2, as recorded in Liber SM No. 8341, folio 144, is a legal buildable lot due to the particular situation as stated in an accompanying brief attached hereto, as more particularly described on Petitioners' Exhibit No. 1 and 2.

The Petitioners, Jo Ann Rogge and Linda Ann Puto, appeared and testified. Appearing and testifying on behalf of the Petition was Mrs. Puto's husband, and Robert Spellman, President of Spellman, Larson and Associates, Inc. Phyllis Cole Friedman, Esquire, appeared in opposition, in her official capacity as Peoples Counsel for Baltimore County.

The Petitioners by way of proffered and direct testimony, offered evidence that tends to establish that an original parcel of land containing approximately 48 acres was subdivided on four different occasions from 1958 through and including February 29, 1980. These subdivisions of the parcel are graphically shown on Petitioners' Exhibit No. 2. The various subdivisions are outlined in a letter of February 13, 1990 which is marked Petitioners' Exhibit No. 6.

The relevant subdivision for purposes of this order is the subdivision of Bernard Rogge to William Frederick Rogge and Jo Ann W. Rogge on February

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Date 6/16/90
By M. Z. Haines

29, 1980 in a deed recorded among the Land Records of Baltimore County at EHK, Jr., 6141, folio 46. This deed conveyed a 7.26 acre parcel of land, as shown on Petitioners' Exhibit No. 2 as Lot No. 5 outlined in black. This is the same lot or parcel of land which is shown on Petitioners' Exhibit No. 1 in greater detail. The original lot No. 5 containing 7.26 acres of land has been subdivided and renumbered to Lots 1 and 2 as shown on Petitioners' Exhibit No. 1.

The issue before the Zoning Commissioner is whether or not Lot No. 2 as shown on Petitioners' Exhibit No. 1, which is a 2.64 acre portion of original Lot No. 5 on Petitioners' Exhibit No. 2, is a legal buildable lot.

The Petitioners have offered testimony and evidence that the original Lot No. 5 which contained 7.26 acres of ground was subdivided into Lots Nos. 1 and 2 as shown on Petitioners' Exhibit No. 1, in order to provide a buildable lot for the Co-Petitioner, Linda Ann Puto and her husband. This proposed lot of ground was proposed for subdividing by Mr. and Mrs. Rogge in October of 1987. According to Mrs. Rogge's testimony, she was instructed by a member of the staff of the Office of Current Planning of the Department of Planning and Zoning that she could subdivide the lot into two parcels for building purposes. After retaining the services of Spellman, Larson and Associates, Inc. to consummate this subdivision, it was later determined when a building permit was requested by Linda Puto for newly created Lot No. 2, that this lot had been created in contradiction to the specific authority set forth in County Council Bill No. 178-79 concerning development of R.C.2 land. The relevant parts of this legislation is codified at Section 1A01.3 of the B.C.Z.R.

The testimony and evidence, clearly, indicates that all of the subject land has been and continues to be zoned R.C.2. The Petitioners move for-

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ward with certain improvements to proposed Lot No. 2, in anticipation of obtaining a building permit for the house to be located on that lot.

The Petitioners' case does not stand upon any legal doctrine. The Petitioners' case is solely based upon an equitable request. The Petitioner wants the Zoning Commissioner to provide the necessary density to enable the development of this lot as a result of the hardships they claimed to have suffered. Specifically, the Petitioners cite their belief that a lot of record is entitled to subdivision. Furthermore, they cite their alleged good faith undertaking to subdivide this particular lot and the failure to be informed that the lot would not be permitted. They also believed that they have proceeded in good faith without any attempts to evade any of the zoning requirements and that the hardship has resulted due to their lack of knowledge of the specific regulations.

Phyllis Cole Friedman, Esquire, on behalf of the Office of People's Counsel for Baltimore County, argues in opposition to the granting of this relief citing that the relief is in direct contradiction to the specific provisions of Baltimore County Zoning Regulations (B.C.Z.R.) concerning the subdivision of R.C.2 zone. Specifically, Mrs. Friedman argues that the granting of this relief would be in contradiction to the provisions of Section 1A01.3 of the B.C.Z.R. These regulations specifically provide that a lot having an area of between 2 and 100 acres may not be subdivided into more than two lots. Clearly, the subdivision on February 29, 1980 of Lot No. 5 from Lot No. 1, as shown on Petitioners' Exhibit No. 2 was the only legal subdivision of this parcel, as provided by the B.C.Z.R. in Section 1A01.3.B.1.

The Office of Planning and Zoning, through official comments of the Deputy Director, Arnold F. (Pat) Keller, clearly, indicate:

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The subject property is zoned R.C.2 (Resource Conservation Agriculture) and is within an R.C.2 area. The purpose of R.C.2 zoning is "to foster conditions favorable to continued agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban areas..." (B.C.Z.R. 1A01.3.B.). Specifically subdivision in the R.C. 2 is limited to "... no such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total)..." (B.C.Z.R. 1A01.3.B.1).

Since this lot was subdivided from another parcel after 1979, it cannot be subdivided again. The only relief for the Petitioner is to attempt to rezone this property through the Comprehensive Zoning or the Cycle Zoning process.

The Baltimore County Zoning Regulations provide for several different types of relief to be granted by the Zoning Commissioner through the various public hearing processes. One of the very specific limitations upon the Zoning Commissioner's authority resides in Section 307.1 of the B.C.Z.R. That section provides for the standard under which the Zoning Commissioner may grant variances. This matter has not been specifically filed as a variance case, however, the prohibition against granting a residential density variance is, clearly, set forth in Section 307.1. That section states "no increase in residential density beyond that otherwise allowable by the zoning regulations shall be permitted as a result of any such grant of a variance from height or area regulations". The regulation then goes on to cite the types of variances that the Zoning Commissioner is empowered to grant and then, specifically, states that the Zoning Commissioner shall have no power to grant any other variances.

Likewise, the authority of the Zoning Commissioner to conduct other hearings such as the one filed for herein rest in the authority granted to the Zoning Commissioner pursuant to Section 500.7 of the B.C.Z.R. That section of the regulations provides the Zoning Commissioner with the power

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PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: **90-456-SPH**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a determination that Lot No. 2 as recorded in Liber SM No. 8341, folio 144, is a legal buildable lot due to the particular situation as stated in an accompanying brief.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):	MAP 136 17.1
(Type or Print Name)	Jo Ann W. Rogge	D-4
Signature	<i>Jo Ann W. Rogge</i>	S. R. 11/94
Address	Linda Ann Puto	DATE 6/16/90
City and State	(Type or Print Name)	300
	<i>Linda Ann Puto</i>	1000
	Signature	D-25
Attorney for Petitioner:	6707 Cherry Hill Road	
(Type or Print Name)	Address	Phone No.
Signature	Baldwin, MD 21013	592-9482
Address	City and State	
City and State	Name, address and phone number of legal owner, contract purchaser or representative to be contacted	
	Spellman, Larson & Assoc. Inc.	
Attorney's Telephone No.:	105 W. Chesapeake Ave. Suite 107	
	Towson, MD 21204	823-3535
	Address	Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 104, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock _____ M.

J. Robert Haines
Zoning Commissioner of Baltimore County

(over)

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to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations. The Zoning Commissioner also has the authority, pursuant to Section 500.7 of the B.C.Z.R. to conduct such other hearings as are necessary to determine any rights whatsoever of such property owners or persons with an interest in property in Baltimore County insofar as they are affected by these regulations. The Petitioner has chosen to avoid the residential density variance issue by filing a request for relief, pursuant to Section 500.7.

Although, the Zoning Commissioner is empowered by Section 500.7 to pass such Orders as are necessary for the proper enforcement of the B.C.Z.R., or for the proper determination of property rights as they are affected by the B.C.Z.R., I do not believe that Section 500.7 of the B.C.Z.R. grants to the Zoning Commissioner a specific authority that has been removed by the clear language of another specific prohibition found elsewhere in the regulations. Specifically, Section 307.1 of the B.C.Z.R. denies to the Zoning Commissioner the authority to create additional density units or thereby create an increase in residential density by use of the variance authority. It is my opinion that Section 500.7 cannot be used to create a right in property, specifically, an additional density unit which has been specifically denied to the Zoning Commissioner elsewhere in the regulations.

Furthermore, I do not believe that it is within the authority of the Zoning Commissioner to ignore the clear and unequivocal language set forth in Section 1A01.3 concerning the area regulations and specifically the subdivision of lots for density purposes as set forth in those regulations. I do not believe that an equitable determination is permitted to

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supersede and emasculate the clear and unequivocal language of the specific regulations which limit certain property rights, i.e., specifically, density units within a particular zone.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 8th day of June, 1990, that determination of Lot No. 2, as recorded in Liber SM No. 8341, folio 144, is a legal buildable lot due to the particular situation, in accordance with Petitioners' Exhibit No. 1, is hereby DENIED.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner for
Baltimore County

JRH:mmm
cc: Peoples Counsel

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By M. Z. Haines

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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

June 6, 1990



Dennis F. Rasmussen
County Executive

Mrs. Jo Ann W. Rogge
Mrs. Linda Ann Puto
6707 Cherry Hill Road
Baldwin, Maryland 21013

RE: Petition for Special Hearing
Jo Ann W. Rogge and Linda Ann Puto, Petitioners
Case #90-456-SPH

Dear Mrs. Rogge and Mrs. Puto:

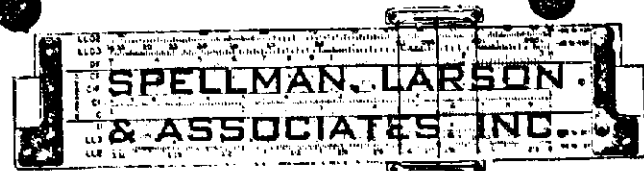
Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been denied in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
att.
cc: Peoples Counsel
cc: Robert Spellman
Spellman, Larson and Assoc. Inc.
Room 107, 105 W. Chesapeake Avenue
Towson, Maryland 21204

ORDER RECEIVED FOR FILING
Date 6/16/90
By M. Z. Haines



SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

90-456-SPH

DESCRIPTION FOR A SPECIAL HEARING, ROGGE PROPERTY,
CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE COUNTY, MD

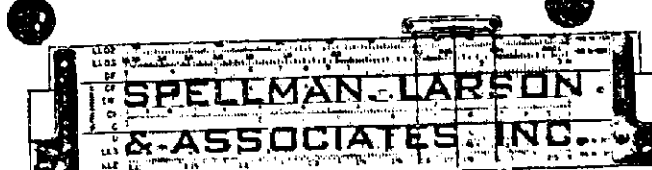
Beginning for the same at the two following distances
from the centerline of Cherry Hill Road which is
approximately 2,000 feet east of Fork Road: that is, easterly
25 feet, more or less, to the west side of a 25 foot right of
way and 275 feet, more or less, southerly along the west side
of said 25 foot right of way: and running thence North 82
Degrees 00 Minutes 40 Seconds East 500.00 feet South 16
Degrees 27 Minutes 10 Seconds East 634.60 feet North 89
Degrees 29 Minutes 20 Seconds West 600.00 feet and North 07
Degrees 59 Minutes 20 Seconds West 539.00 feet to the place
of beginning.

Containing 7.26 acres of land, more or less.

3/15/90



RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION



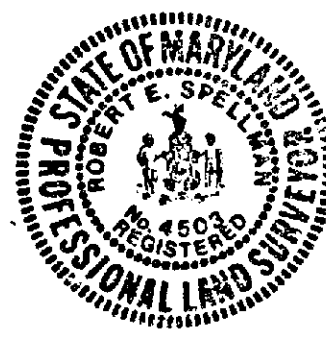
SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

DESCRIPTION FOR A SPECIAL HEARING, ROGGE PROPERTY,
CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE COUNTY, MD, LOT 1

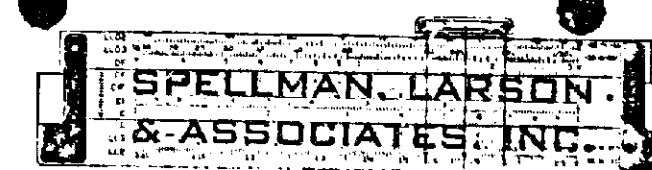
Beginning for the same at the two following distances
from the centerline of Cherry Hill Road which is
approximately 2,000 feet east of Fork Road: that is, easterly
25 feet, more or less, to the west side of a 25 foot right of
way and 498 feet, more or less, southerly along the west side
of said 25 foot right of way: and running thence North 82
Degrees 00 Minutes 40 Seconds East 533.18 feet South 16
Degrees 27 Minutes 10 Seconds East 409.14 feet North 89
Degrees 29 Minutes 20 Seconds West 600.00 feet and North 07
Degrees 59 Minutes 20 Seconds West 316.00 feet to the place
of beginning.

Containing 4.62 acres of land, more or less.

3/15/90



RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION



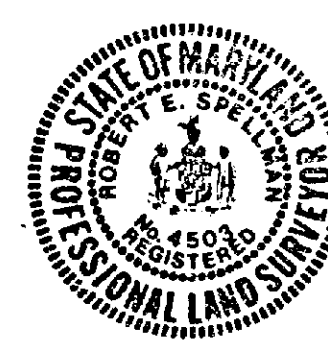
SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

DESCRIPTION FOR A SPECIAL HEARING, ROGGE PROPERTY,
CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE COUNTY, MD, LOT 2

Beginning for the same at the two following distances
from the centerline of Cherry Hill Road which is
approximately 2,000 feet east of Fork Road: that is, easterly
25 feet, more or less, to the west side of a 25 foot right of
way and 275 feet, more or less, southerly along the west side
of said 25 foot right of way: and running thence North 82
Degrees 00 Minutes 40 Seconds East 500.00 feet South 16
Degrees 27 Minutes 10 Seconds East 225.47 feet South 82
Degrees 00 Minutes 40 Seconds West 533.18 feet and North 07
Degrees 59 Minutes 20 Seconds West 223.00 feet to the place
of beginning.

Containing 2.64 acres of land, more or less.

3/15/90



RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 5/1/90
Posted for: Special Hearing
Petitioner: Jo Ann M. Rogge & Linda Ann Puto
Location of property: E/S Cherry Hill Rd, 2000' E of Fork Rd
6631 Cherry Hill Rd
Location of Sign: Cherry Hill Rd, 5700' E of Fork Rd
Remarks: 2nd property of petitioner
Posted by: [Signature] Date of return: 5/1/90
Number of Signs: 1



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

No 1771

Date

3/16/90

H9000321

PUBLIC HEARING FEES	QTY	PRICE
040 - SPECIAL HEARING (OTHER)	1 X	\$175.00
TOTAL:		\$175.00

LAST NAME OF OWNER: PUTO
B 8 100*****17500: \$168F

Cashier Validation: Please make checks payable to: Baltimore County

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Petition for Special Hearing
Case Number: 90-456-SPH
E/S Cherry Hill Road, 2000' E of Fork Road
6631 Cherry Hill Road
11th Election District
8th Councilmanic
Petitioner(s): Jo Ann M. Rogge and Linda Ann Puto
Hearing Date: Tuesday, May 2, 1990 at 9:30 a.m.
Special Hearing: A determination of whether the proposed use is a permitted use in the zoning district. In the event that the Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner
Baltimore County
MAY 2, 1990

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 3, 1990.

NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

S. Zabe - Orlan

Publisher



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

No 2613

90-456

H9000655

Date

5/29/90

PUBLIC HEARING FEES	QTY	PRICE
080 - POSTING SIGNS / ADVERTISING	1 X	\$105.46
TOTAL:		\$105.46

LAST NAME OF OWNER: PUTO

B 8 003*****10546: \$261F
Please make checks payable to: Baltimore County

Cashier Validation:

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE 5/14/90

Jo Ann M. Rogge
Linda Ann Puto
5707 Cherry Hill Road
Baldwin, Maryland 21013

Re: Petition for Special Hearing
CASE NUMBER: 90-456-SPH
E/S Cherry Hill Road, 2000' E of Fork Road
6631 Cherry Hill Road
11th Election District - 8th Councilmanic
Petitioner(s): Jo Ann M. Rogge and Linda Ann Puto
HEARING: TUESDAY, MAY 29, 1990 at 9:30 a.m.

Dear Petitioners:

Please be advised that \$105.46 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

April 12, 1990

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Hearing
CASE NUMBER: 90-456-SPH
E/S Cherry Hill Road, 2000' E of Fork Road
6631 Cherry Hill Road
11th Election District - 8th Councilmanic
Petitioner(s): Jo Ann M. Rogge and Linda Ann Puto
HEARING: TUESDAY, MAY 29, 1990 at 9:30 a.m.

Special Hearing: A determination that Lot No. 2 as Recorded in Liber SP No. 8341, Folio 144, is a legal buildable lot.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Petitioners
Spellman, Larson & Assoc., Inc.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

May 15, 1990



Mrs. JoAnn W. Rogge
6707 Cherry Hill Road
Baldwin, MD 21013

RE: Item No. 321, Case No. 90-456-SPH
Petitioner: JoAnn W. Rogge
Petition for Special Hearing

Dear Mrs. Rogge:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

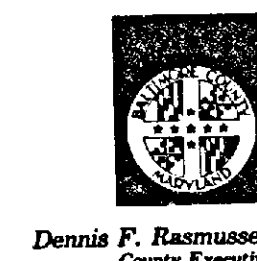
Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner



Your petition has been received and accepted for filing this
4th day of April, 1990.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: JoAnn W. Rogge, et al

Petitioner's Attorney:

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

March 23, 1990



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

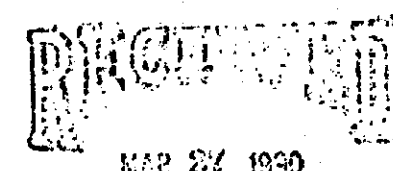
Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 300, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, and 321.

Very truly yours,

Michael S. Planigan
Michael S. Planigan
Traffic Engineer Assoc. II

MSF/lvw



MAR 27 1990

ZONING OFFICE

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 321, Zoning Advisory Committee Meeting of April 3, 1990

Property Owner: Jo Ann W. Rogge + Linda Ann Puto

Location: 6631 Cherry Hill Road District: 11

Water Supply: private Sewage Disposal: private

Comments are as follows:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for new existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any chabroiler generation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type health care facilities, must be submitted to the Baltimore County Department and safety; two (2) copies of plans and specifications must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appliances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 687-6500 x 315.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- () Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- () Soil percolation tests, have been ☒ must be ☐ conducted.
() the results are valid until September 13, 1992.
() Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test () shall be valid until () is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3980.
- () In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.
- () Others

James E. Dyer
BUREAU OF WATER QUALITY AND RESOURCE
MANAGEMENT

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner DATE: May 18, 1990
FROM: Pat Keller, Deputy Director Office of Planning and Zoning
SUBJECT: PUTO/ROGGE ITEM NO. 321
PETITIONER: Jo Ann W. Rogge and Linda Ann Puto
PROPERTY LOCATION: Cherry Hill Road - 11th District
PROPERTY SIZE: 7.26 acres
ZONING: R.C. 2
REQUESTS: The petitioner requests a Special Hearing to determine that Lot No. 2 as recorded in Liber SM No. 834/Folio 144 is a legal buildable lot due to the particular situation as stated in an accompanying brief.
HEARING DATE: May 29, 1990
ATTACHMENTS: N/A

In reference to the petitioner's request, staff offers the following comments:

The Office opposes this petition. It is not appropriate to further subdivide this property as this conflicts with the purpose of the Baltimore County Zoning Regulations and intent of 1989 Baltimore County Master Plan.

The land use of this vicinity is primarily agriculture with scattered residential. The area is designated as an Agricultural Preservation Area in the 1989 Master Plan, pages 116-117 (draft copy).

The subject property is zoned R.C. 2 (Resource Conservation - Agriculture) and is within an R.C. 2 area. The purpose of R.C. 2 zoning is "...to foster conditions favorable to continued agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban areas..." (BCZR 1A01.B.). Specifically, subdivision in the R.C. 2 is limited to "...no such lot having a

gross area between 2 and 100 acres may be subdivided into more than 2 lots (total)..." (BCZR 1A01.3.B.1).

Since this lot was subdivided from another parcel after 1979, it cannot be subdivided again. The only relief for the petitioner is to attempt to rezone this property through the Comprehensive Zoning or the cycle zoning process.

Report prepared by:

Jeffrey W. Long
Jeffrey W. Long, Planner

May 17, 1990
Date

PUTO.ROG/TXTGGL

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500
Paul H. Reincke
Chief

APRIL 4, 1990



J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JO ANN W. ROGGE AND LINDA ANN PUTO
Location: #6631 CHERRY HILL ROAD
Item No.: 321 Zoning Agenda: APRIL 3, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Pat Keller* Noted and Approved: *Robert W. Bowling*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 4, 1990
FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for April 3, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 300, 307, 308, 310, 311, 312, 313, 318, 319 and 320.

For Items 309, 314, 315 and 317, the previous County Review Group comments apply.

For Item 316, a County Review Group meeting may be required.

For Item 321, a County Review Group meeting may be required. Neither lot has in-free frontage to a public road.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
E/S Cherry Hill Rd., 2,000' E
of Fork Rd. (6631 Cherry Hill
Rd.), 11th Election District
6th Councilmanic District
JO ANN ROGGE & LINDA ANN PUTO, : Case No. 90-456-SPH
Petitioners

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, Maryland 21204
897-2188

I HEREBY CERTIFY that on this 4th day of May, 1990, a copy of the foregoing Entry of Appearance was mailed to Jo Ann Rogge and Linda Ann Puto, 6707 Cherry Hill Rd., Baldwin, MD 21013, Petitioners; and Spellman, Larson & Assoc., Inc., 105 W. Chesapeake Ave., Suite 107, Towson, MD 21204, which requested notification.

Peter Max Zimmerman
Peter Max Zimmerman

BRIEF FOR A SPECIAL HEARING
ROGGE PROPERTY, CHERRY HILL ROAD, 11TH DISTRICT, BALTIMORE
COUNTY, MARYLAND

In May of 1986 Jo Ann Rogge, Executive Secretary and Office Manager for Spellman, Larson & Associates, Inc. met with a representative of the current Planning Division of the Office of Planning and Zoning and asked if it was possible to sub-divide her property. The intention was to divide a lot off the property for her daughter to build a house. The representative checked the zoning map and said the property could be sub-divided one time and he gave her a list of requirements.

In October, 1987 Ms. Rogge asked her employers to survey a parcel of ground containing 7.26 acres of land south of Cherry Hill Road and east of Fork Road in Baldwin, Maryland. The property was owned by William F. & Jo Ann W. Rogge by virtue of a deed dated February 29, 1980 and recorded among the Land Records of Baltimore County in EHK, Jr. No. 6141, Folio 46. This property was conveyed by Bernhard Rogge, widower, who owned 48 acres originally.

The intention was to sub-divide the property into 2 lots conveying a lot (lot No. 2) to her daughter, Mrs. Linda Puto. Spellman, Larson & Associates, Inc. were unaware of the affect that bill 178-79 had on this property, since it is

a matter of record. It was conveyed approximately 3 months after the effective date of said bill.

In August, 1989 Mr. William Rogge died, vesting the property in the name of Jo Ann Rogge. Work progressed slowly until a finished sub-division Plat was approved in September of 1989 and recorded among the Plat Records of Baltimore County in Liber SM No. 8341/Folio 144 on Dec. 4, 1989.

In June 1989, following the instructions of the Baltimore County Department of Health, Ms. Rogge had a new septic system installed on Lot No. 1 and wells percolated and drilled on Lot No. 1 and Lot No. 2 of the property. The underground oil tanks were removed and a gully was cleaned of all debris. This was also in accordance with the Department of Health and was subsequently examined by that Department and found to comply with requirements.

Mrs. Puto proceeded to file an application for a Building Permit to construct a house on lot No. 2. This application was held up by the Baltimore County Zoning Department due to the apparent confliction with bill 178-79.

Since all procedures were done in good faith with out any attempt to evade any of the zoning requirements it is requested that a hardship does exist and that the Zoning Commissioner or Deputy Zoning Commissioner would look

favorable upon this request for a variance to the zoning regulations.

Linda Ann Puto

Jo Ann W. Rogge

90-456-SPH

DEED - FEE SIMPLE - INDIVIDUAL GRANTOR - LONG FORM

LIBER 8341 PAGE 144

LOT 2 DEED CURRENTLY RECORDED.
IN 8351/586 SOLD TO DAUGHTER LINDA ROGGE PUTO

This Deed, Made This day of

of the year one thousand nine hundred and eighty-nine

JO ANN W. ROGGE

Baltimore County, State of Maryland,

JO ANN W. ROGGE,

of the second part.

Witnesseth, That in consideration of the sum of Zero Dollars (\$0-0-),

the said party of the first part

does grant and convey to the said party of the second part, her

personal representatives, assigns, heirs, and assigns, in fee simple, all

those lot s of ground situate in the 11th Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

FOR DESCRIPTION OF PROPERTIES, SEE Attached Plat Known as Exhibit A Page 3 on 1

HEREOF.

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
Baltimore County
12-14-89

18.00
19.00
12/14/89

TRANSFER TAX NOT REQUIRED
DIRECT PAYMENT TO
BALTIMORE COUNTY
Per [Signature]
Date 12/14/89

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
12-14-89

90-456-SPH

LIBER 8351 PAGES 86

CURRENT DEED

#321

This Deed, Made This day of DECEMBER,

of the year one thousand nine hundred and eighty-nine

JO ANN W. ROGGE

Baltimore County, State of Maryland,

LINDA ROGGE PUTO,

of the second part.

Witnesseth, That in consideration of the sum of Zero Dollars (\$0-0-),

the said party of the first part

does grant and convey to the said party of the second part, her

personal representatives, assigns, heirs, and assigns, in fee simple, all

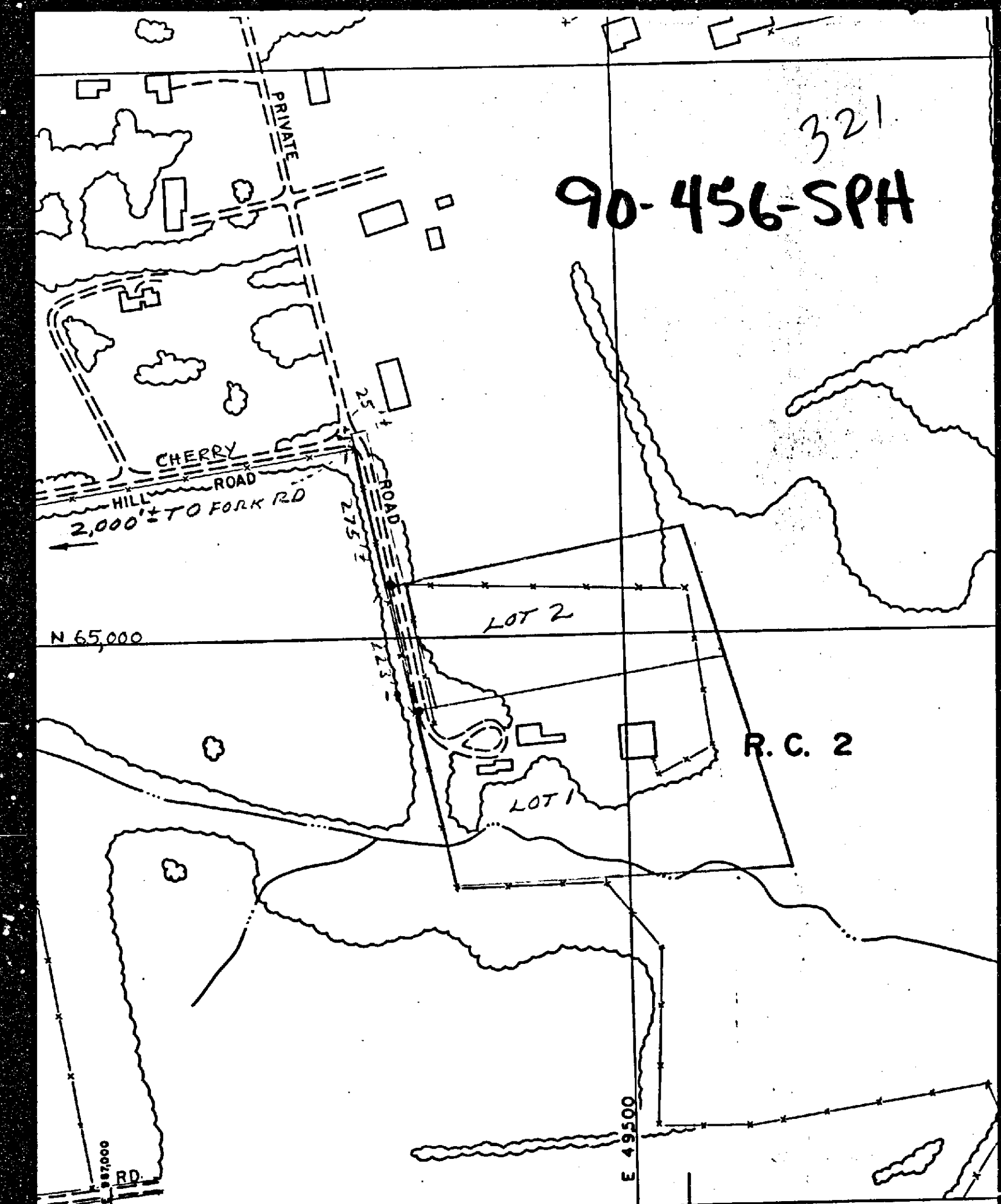
that lot of ground situate in the 11th District of Baltimore County, State of Maryland, and described as follows, that is to say:

FOR DESCRIPTION, SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
Baltimore County
12-14-89

18.00
19.00
12/14/89

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
12-14-89



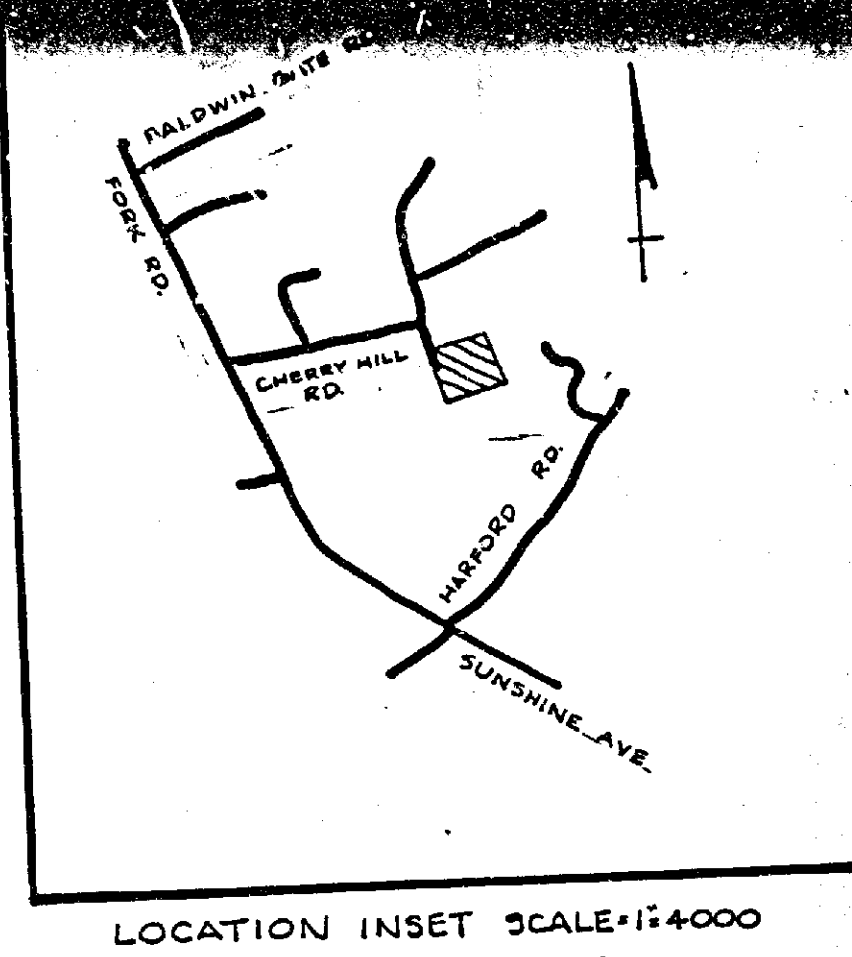
1" = 200'
NE 17-I

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988

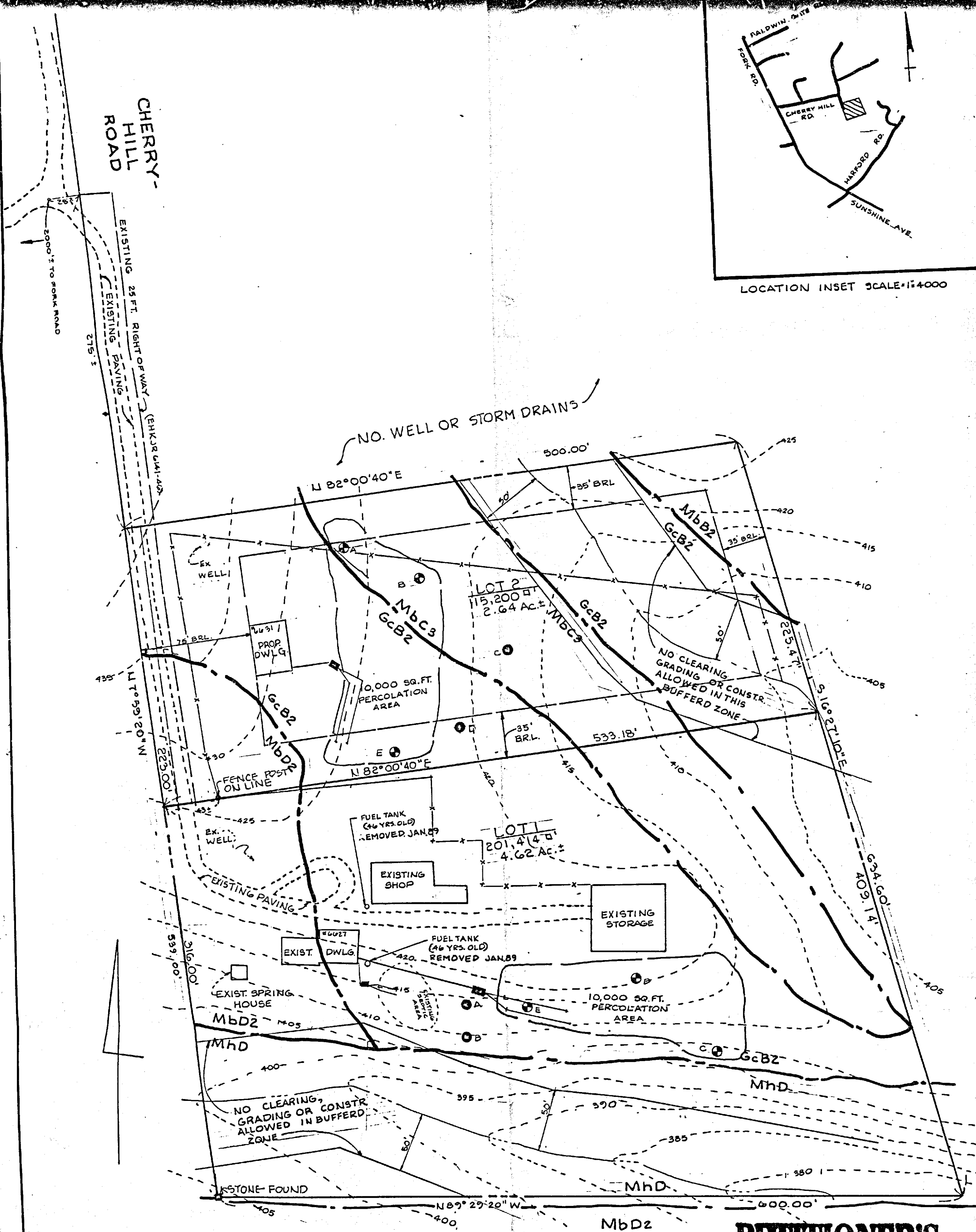
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Dale H. Koss
Chairman, County Council

IN SELECTED AREAS,
PHOTOGRAMMETRIC METHODS
TOWSON, MD. 21210



LOCATION INSET SCALE 1:4000



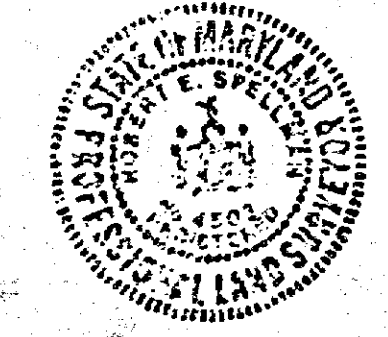
**PETITIONER'S
EXHIBIT 1**

90-456-SPH

PROPERTY OUTLINES ARE THOSE AS APPROVED
AND RECORDED IN LIBER EHK JR. 6141, FOLIO 46.

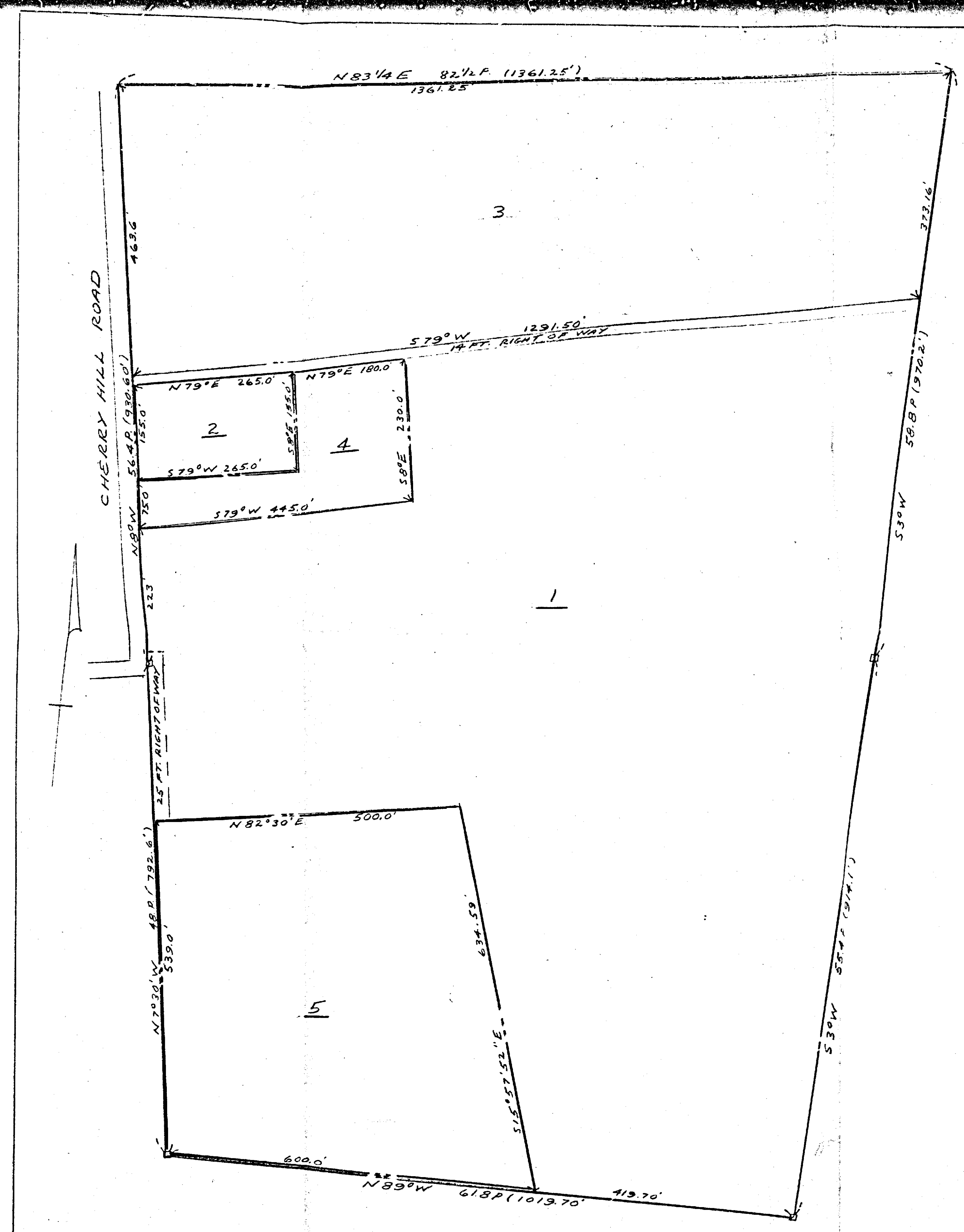
EXISTING ZONING: RC 2
No. OF LOTS: 2
AREA: 7.26 ± AC.
(LOT 1: 4.62 ± AC.)
(LOT 2: 2.64 ± AC.)
11TH ELECTION DISTRICT
659 COUNCILMANIC DISTRICT
PRIVATE SEWER AND WATER

APPLICANTS AND OWNERS
JOANN W. ROGGE
LINDA ANN PUTO
6707 CHERRY HILL ROAD
BALDWIN, MD 21013
PHONE: 592-9482



SPELLMAN, LARSON & ASSOCIATES INC.
Towson, Maryland 21204
823-3335
MAR 14, 1990
Scale: 1" = 50'

87101



1. RJS 1369-119 - OCT. 30, 1944
GEORGE W. SHIPLEY & WF.
TO
BERNHARD ROGGE & WF.,
BERNHARD ROGGE, WILLIAM
FREDERICK ROGGE & NANCY ROGGE
2. GLB 3343-58 - MAY 1, 1958
BERNHARD ROGGE & WF.
TO
WILLIAM FREDERICK ROGGE & WF.
3. EHK JR. 5442-429 - MAY 1, 1974
BERNHARD ROGGE & WF.
TO
EDWARD L. SCHNEIDER & WF.
4. EHK JR. 5744-443 - APR. 20, 1977
BERNHARD ROGGE, WIDOWER
TO
WILLIAM FREDERICK ROGGE & WF.
5. EHK JR. 6141-46 - FEB. 23, 1980
TO
WILLIAM FREDERICK ROGGE & WF.

TITLE PLAT
ROGGE PROPERTY
CHERRY HILL ROAD
11TH DISTRICT
BALTIMORE CO. MD.

**PETITIONER'S
EXHIBIT 2**

90-456-SPH

KEEP IN HEARING
FILE. #321



SPELLMAN, LARSON & ASSOCIATES INC.
Towson, Maryland 21204
823-3335
FEB. 22, 1990
Scale: 1" = 100'

87101

PETITIONER'S EXHIBIT 3 90-456SPH

THE UNDERSIGNED HEREBY ATTEST THAT WE ACKNOWLEDGE AND FULLY UNDERSTAND THE MEANING AND INTENT OF THE ZONING PETITION FILED BY JO ANN ROGGE AND HER DAUGHTER LINDA ANN PUTO IDENTIFIED AS CASE NO. 90-456-SPH AND FURTHER ATTEST THAT WE ARE IN COMPLETE ACCORD AND FAVOR OF GRANTING SAID PETITION.

H. C. Bright - 6708 Cherry Hill Road 21013
M. M. O'Leary - 6709 Cherry Hill Rd. 21013
Kenneth W. Scott - 6709 Cherry Hill Rd 21013
Nancy Gustafson - 6712 Cherry Hill Rd. 21013
James W. Rodgers - 6600 Cherry Hill Rd. 21013
Roxie Brady - 6600 Cherry Hill Rd 21013
Dixie B. Rodgers - 6600 Cherry Hill Road 21013
Georgie M. Rowan - 6716 Cherry Hill Rd. 21013
William A. Ryan - 6716 Cherry Hill Rd. 21013
Shirley Harrison - 6622 Cherry Hill Rd. 21013
Harold A. Jamison - 6622 Cherry Hill Rd. 21013
Donna R. Liberto - 6620 Cherry Hill Rd., 21013
Barbara Frank - 6711 Cherry Hill Rd. 21013
James A. Frank - 6711 Cherry Hill Rd. 21013
Richard M. Petrucci - 6608 Cherry Hill Rd. 21013

C. WAYNE CASWELL, INC.
WATER WELL DRILLING
3515 N. FURNACE ROAD
JARRETTSVILLE, MARYLAND 21084

301/557-WELL

90-456SPH

STATEMENT

Mr. & Mrs. William Rogge

PETITIONER'S EXHIBIT 4

Page 2 of 2

DATE	INVOICE NUMBER	DESCRIPTION	CHARGE	CREDITS	BALANCE
		LOT 2 ROGGE PROPERTY		BALANCE FORWARD	
4/14/89		Well 250' 8.33 g.p.m.	1875.00		
		Extra Casing	240.00		
		Grout	150.00		
		Extra Grout	178.50		
		Pump Test	150.00		
		Capping	15.00		2608.50
		Lot 1	2891.50		2891.50
		Lot 2	2608.50		2608.50
		Total		322.00	5500.00
		Deposit		300.00	5200.00

FORM 895
8-88

PLEASE PAY LAST AMOUNT IN THIS COLUMN

C. WAYNE CASWELL, INC.
WATER WELL DRILLING
3515 N. FURNACE ROAD
JARRETTSVILLE, MARYLAND 21084

2408.50 2408.50

TERMS: NET DUE UPON RECEIPT. A FINANCE CHARGE OF 1% (ANNUAL RATE OF 18%) WILL BE ADDED TO PAST DUE BALANCE 10 DAYS FROM DAY OF CHARGE.

BALTIMORE COUNTY
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
County Courts Building
401 Bosley Avenue - Towson, MD 21204

APPROVAL LETTER

September 13, 1989

Spellman Larson, Inc.
105 West Chesapeake Avenue
Towson, Maryland 21204

Re: 6607/6625 Cherry Hill Road, E.D. 11
Rogge Property, TA# 18-00-012991

Dear Sirs:

A representative of this office, Susan S. Farinetti, R.S. conducted soil evaluations on August 11, 1989 regarding the above referenced lot(s). The results are as follows:

TEST PIT DRAWDOWN DEPTH SOIL

SEE PAGE 3

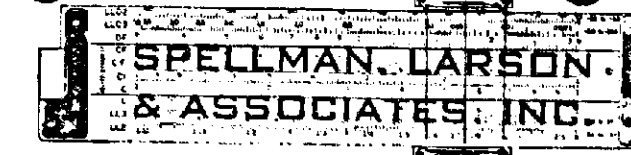
PETITIONER'S EXHIBIT 5

90-456SPH

Based on the evaluations and the revised plot plan dated September 7, 1989, APPROVAL will be granted for the installation of a private sewage disposal system. Soil evaluation results will be valid for a period of three (3) years. At the expiration of this period of time, the results will become void without notice to that effect having been given by the approving authority.

It should be noted, there is an area designated on the site plan for the sewage disposal system and expansion thereof. Under no circumstances shall any permanent structures above or below ground, be permitted within this area. Also, no underground electric lines, water pipes, gas lines, etc., shall be permitted in the disposal system area.

W/S APP'VL(3-89)



321

ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON
HENRY M. APPEL

SUITE 107 - JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
823-3535

February 13, 1990

Baltimore County
Department of Planning & Zoning
County Office Building
Towson, MD 21204

Re: Rogge Property
Cherry Hill Road, 11th Election District,
Baltimore County, MD

Attn: Mr. John Lewis

Dear Mr. Lewis:

Following is a Title Report enumerating various conveyances of the Rogge Property since 1944:

1. RJS 1369, Folio 119 - October 30, 1944
George W. Shipley and wife
to
Bernhard Rogge and Anna Maria Rogge, his wife,
Bernhard Rogge, William Frederick Rogge and Nancy Ann Rogge

This deed conveyed forty-eight acres on the eastside of Cherry Hill Road.

2. GLB 3343, Folio 58 - May 1, 1958

Bernhard Rogge and Anna Maria Rogge, his wife
to
William Frederick Rogge and Jo Ann W. Rogge

This deed conveyed 0.94 acres of land on the eastside of Cherry Hill Road south of a fourteen foot right-of-way.

3. EHK, Jr. 5442, Folio 429 - May 1, 1974
Bernhard Rogge and Anna Maria Rogge, his wife
to
Edward L. Schneider and wife

This deed conveyed 12.61 acres of land, more or less on the eastside of Cherry Hill Road north of a fourteen foot right-of-way.

RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION